

AMENDED IN SENATE JUNE 2, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 299**

**Introduced by Assembly Members Lowenthal and Koretz**

February 6, 2003

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An act to add *Section 5386.5 to the Public Utilities Code, and to add Section 21100.4 to the Vehicle Code, relating to vehicles.*

LEGISLATIVE COUNSEL'S DIGEST

AB 299, as amended, Lowenthal. Vehicles: taxicabs and passenger vehicles for hire: violations: impoundment: *charter-party carriers of passengers: advertisement as taxicabs.*

**Existing**

(1) *Existing* law requires a magistrate presented with the affidavit of a peace officer establishing reasonable cause to believe that a vehicle was an instrumentality used in the peace officer's presence in violation of certain provisions relating to reckless driving and fleeing a peace officer, to issue a warrant or order authorizing any peace officer to immediately seize and cause the removal of the vehicle. The warrant or court order may be entered into a computerized database, and a vehicle so impounded may be impounded for a period not to exceed 30 days. Existing law provides procedures for release of the vehicle prior to the end of the 30-day period.

This bill would require a magistrate presented with the affidavit of a peace officer establishing reasonable cause to believe that a vehicle is being operated as a taxicab or other passenger vehicle for hire in violation of licensing requirements adopted by a local authority under a specified provision of the Vehicle Code to issue a warrant or order

authorizing any peace officer to immediately seize and cause the removal of the vehicle. The bill would authorize a vehicle so impounded to be impounded for a period not to exceed 30 days. The bill would provide procedures for release of the vehicle prior to the end of the 30-day period.

(2) *Under existing law, the Public Utilities Commission is vested with regulatory authority over public utilities including charter-party carriers. The existing Passenger Charter-Party Carriers Act requires a charter-party carrier of passengers, as defined, to obtain a certificate of public convenience and necessity or a permit issued by the commission, and to operate within the state on a prearranged basis, as defined. The act requires every charter-party carrier of passengers to display on the vehicle a distinctive identifying symbol in the form prescribed by the commission and requires every written or oral advertisement of services to state the number of its permit or identifying symbol, as specified by the commission.*

*This bill would prohibit a charter-party carrier of passengers from advertising or otherwise representing their services to the public, as a taxicab or taxi service. Because a violation of the act or an order of the commission under the act is a crime under existing law, the bill would impose a state-mandated local program by creating a new crime.*

(3) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 5386.5 is added to the Public Utilities  
2 Code, to read:  
3 5386.5. No charter-party carrier of passengers shall  
4 advertise its services, or in any manner represent its services, as  
5 being a taxicab or taxi service. For the purposes of this section,  
6 “advertise” includes any business card, stationery, brochure,  
7 flyer, circular, newsletter, fax form, printed or published paid  
8 advertisement in any media form, or telephone book listing.

1     *SEC. 2.* Section 21100.4 is added to the Vehicle Code, to read:

2     21100.4. (a) (1) A magistrate presented with the affidavit of  
3 a peace officer establishing reasonable cause to believe that a  
4 vehicle, described by vehicle type and license number, is being  
5 operated as a taxicab or other passenger vehicle for hire in  
6 violation of licensing requirements adopted by a local authority  
7 under subdivision (b) of Section 21100 shall issue a warrant or  
8 order authorizing any peace officer to immediately seize and cause  
9 the removal of the vehicle.

10    (2) The warrant or court order may be entered into a  
11 computerized database.

12    (3) A vehicle so impounded may be impounded for a period not  
13 to exceed 30 days.

14    (4) The impounding agency, within two working days of  
15 impoundment, shall send a notice by certified mail, return receipt  
16 requested, to the legal owner of the vehicle, at an address obtained  
17 from the department, informing the owner that the vehicle has  
18 been impounded and providing the owner with a copy of the  
19 warrant or court order. Failure to notify the legal owner within two  
20 working days shall prohibit the impounding agency from charging  
21 for more than 15 days impoundment when a legal owner redeems  
22 the impounded vehicle.

23    (b) (1) An impounding agency shall release a vehicle to the  
24 registered owner or his or her agent prior to the end of the  
25 impoundment period and without the permission of the magistrate  
26 authorizing the vehicle's seizure under any of the following  
27 circumstances:

28     (A) When the vehicle is a stolen vehicle.

29     (B) When the vehicle was seized under this section for an  
30 offense that does not authorize the seizure of the vehicle.

31    (2) No vehicle may be released under this subdivision, except  
32 upon presentation of the registered owner's or agent's currently  
33 valid license to operate the vehicle under the licensing  
34 requirements adopted by the local authority under subdivision (b)  
35 of Section 21100, and proof of current vehicle registration, or upon  
36 order of the court.

37    (c) (1) Whenever a vehicle is impounded under this section,  
38 the magistrate ordering the storage shall provide the vehicle's  
39 registered and legal owners of record, or their agents, with the

1 opportunity for a poststorage hearing to determine the validity of  
2 the storage.

3 (2) A notice of the storage shall be mailed or personally  
4 delivered to the registered and legal owners within 48 hours after  
5 issuance of the warrant or court order, excluding weekends and  
6 holidays, by the person or agency executing the warrant or court  
7 order, and shall include all of the following information:

8 (A) The name, address, and telephone number of the agency  
9 providing the notice.

10 (B) The location of the place of storage and a description of the  
11 vehicle, which shall include, if available, the name or make, the  
12 manufacturer, the license plate number, and the mileage of the  
13 vehicle.

14 (C) A copy of the warrant or court order and the peace officer's  
15 affidavit, as described in subdivision (a).

16 (D) A statement that, in order to receive their poststorage  
17 hearing, the owners, or their agents, are required to request the  
18 hearing from the magistrate issuing the warrant or court order in  
19 person, in writing, or by telephone, within 10 days of the date of  
20 the notice.

21 (3) The poststorage hearing shall be conducted within two  
22 court days after receipt of the request for the hearing.

23 (4) At the hearing, the magistrate may order the vehicle  
24 released if he or she finds any of the circumstances described in  
25 subdivision (b) or (e) that allow release of a vehicle by the  
26 impounding agency.

27 (5) Failure of either the registered or legal owner, or his or her  
28 agent, to request, or to attend, a scheduled hearing satisfies the  
29 poststorage hearing requirement.

30 (6) The agency employing the peace officer who caused the  
31 magistrate to issue the warrant or court order shall be responsible  
32 for the costs incurred for towing and storage if it is determined in  
33 the poststorage hearing that reasonable grounds for the storage are  
34 not established.

35 (d) The registered owner or his or her agent is responsible for  
36 all towing and storage charges related to the impoundment, and  
37 any administrative charges authorized under Section 22850.5.

38 (e) A vehicle removed and seized under subdivision (a) shall be  
39 released to the legal owner of the vehicle or the legal owner's agent  
40 prior to the end of the impoundment period and without the

1 permission of the magistrate authorizing the seizure of the vehicle  
2 if all of the following conditions are met:

3 (1) The legal owner is a motor vehicle dealer, bank, credit  
4 union, acceptance corporation, or other licensed financial  
5 institution legally operating in this state or is another person, not  
6 the registered owner, holding a financial interest in the vehicle.

7 (2) The legal owner or the legal owner's agent pays all towing  
8 and storage fees related to the seizure of the vehicle. No lien sale  
9 processing fees shall be charged to the legal owner who redeems  
10 the vehicle prior to the 15th day of impoundment. Neither the  
11 impounding authority nor any person having possession of the  
12 vehicle shall collect from the legal owner of the type specified in  
13 paragraph (1), or the legal owner's agent any administrative  
14 charges imposed pursuant to Section 22850.5 unless the legal  
15 owner voluntarily requested a poststorage hearing.

16 (3) (A) The legal owner or the legal owner's agent presents  
17 either lawful foreclosure documents or a certificate of  
18 repossession and a security agreement or title showing proof of  
19 legal ownership for the vehicle. Any documents presented may be  
20 originals, photocopies, or facsimile copies, or may be transmitted  
21 electronically. The impounding agency may not require any  
22 documents to be notarized. The impounding agency may require  
23 the agent of the legal owner to produce a photocopy or facsimile  
24 copy of its repossession agency license or registration issued  
25 pursuant to Chapter 11 (commencing with Section 7500) of  
26 Division 3 of the Business and Professions Code, or to  
27 demonstrate, to the satisfaction of the impounding agency, that the  
28 agent is exempt from licensure pursuant to Section 7500.2 or  
29 7500.3 of the Business and Professions Code.

30 (B) No administrative costs authorized under subdivision (a) of  
31 Section 22850.5 may be charged to the legal owner of the type  
32 specified in paragraph (1), who redeems the vehicle unless the  
33 legal owner voluntarily requests a poststorage hearing. No city,  
34 county, city and county, or state agency shall require a legal owner  
35 or a legal owner's agent to request a poststorage hearing as a  
36 requirement for release of the vehicle to the legal owner or the  
37 legal owner's agent. The impounding agency may not require any  
38 documents other than those specified in this paragraph. The  
39 impounding agency may not require any documents to be  
40 notarized.

(C) As used in this paragraph, “foreclosure documents” means an “assignment” as that term is defined in subdivision (o) of Section 7500.1 of the Business and Professions Code.

(f) (1) A legal owner or the legal owner’s agent that obtains release of the vehicle pursuant to subdivision (e) may not release the vehicle to the registered owner of the vehicle or any agents of the registered owner until the termination of the impoundment period.

(2) The legal owner or the legal owner’s agent may not relinquish the vehicle to the registered owner until the registered owner or that owner’s agent presents his or her valid driver’s license or valid temporary driver’s license, and an operator’s license that is in compliance with the licensing requirements adopted by the local authority under subdivision (b) of Section 21100, to the legal owner or the legal owner’s agent. The legal owner or the legal owner’s agent shall make every reasonable effort to ensure that the licenses presented are valid.

(3) Prior to relinquishing the vehicle, the legal owner may require the registered owner to pay all towing and storage charges related to the impoundment and the administrative charges authorized under Section 22850.5 that were incurred by the legal owner in connection with obtaining the custody of the vehicle.

(g) Notwithstanding any other provision of this section, the registered owner and not the legal owner shall remain responsible for any towing and storage charges related to the impoundment and the administrative charges authorized under Section 22850.5 and any parking fines, penalties, and administrative fees incurred by the registered owner.

(h) The impounding agency is not liable to the registered owner for the improper release of the vehicle to the legal owner or the legal owner’s agent if the release complies with this section.

*SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within*

1 *the meaning of Section 6 of Article XIII B of the California*  
2 *Constitution.*

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